

**ASSEMBLY BILL**

**No. 2704**

---

**Introduced by Assembly Member Leno**

February 22, 2008

---

An act to add Sections 35182.7 and 49571 to the Education Code, relating to pupil nutrition.

LEGISLATIVE COUNSEL'S DIGEST

AB 2704, as introduced, Leno. Pupil nutrition: availability of tap water.

(1) Existing law prohibits the governing board of a school district from entering into a contract that grants exclusive advertising rights, or grants the right to the exclusive sale of carbonated beverages, throughout the district to a person, business, or corporation unless the governing board of the school district has adopted a policy after a public hearing to ensure that the district has internal controls in place regarding the expenditure of public funds.

Under existing law, these provisions are applicable to a contract for the sale of carbonated beverages or nonnutritious beverages or nonnutritious food, as defined, within the school district. In addition, existing law prohibits a governing board from entering into or renewing that contract or authorizing a school within the district to enter into or renew that contract, unless the governing board provides to parents, guardians, pupils, and members of the public an opportunity to comment on the contract during a public hearing conducted at a regularly scheduled board meeting. Existing law also requires the board to clearly identify in the meeting agenda the contract to be discussed. Existing law further specifies certain activities that meet the public hearing requirements for beverage and food contracts. Existing law prohibits

the contract from including a confidentiality clause, and requires the board to make the contract accessible to the public.

This bill would express findings and declarations of the Legislature relating to childhood obesity and the significance of the availability of free tap water at schools in addressing childhood obesity. The bill, notwithstanding the provisions described above, would prohibit the governing board of a school district entering into, or renewing, a contract that prevents or discourages schools either explicitly or implicitly from providing free tap water at a location on the school campus. The bill would require each school district to allow for the provision of free tap water in school food service areas, as defined in federal regulations, including, but not necessarily limited to, areas where reimbursable meals under the National School Lunch Program or the federal School Breakfast Program are served or consumed.

Because the bill would impose new duties on school districts, it would constitute a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) A strong and growing body of evidence highlights the link
- 4 between diet and health and that diet-related diseases start early
- 5 in life.
- 6 (b) Increased caloric intake is a key factor contributing to the
- 7 alarming increase in obesity in California and the rest of the United
- 8 States. According to recent data, rates of childhood obesity are
- 9 rising, with one in three children in California being overweight
- 10 or obese. These rates show little sign of slowing.
- 11 (c) Overweight and obese children are more likely to grow up
- 12 to become overweight or obese adults.

1 (d) Obesity increases the risk of diabetes, heart disease, stroke,  
2 some cancers, and other health problems.

3 (e) A 2005 study conducted for the State of California found  
4 that costs related to overweight and obesity among adults amount  
5 to over eight billion dollars (\$8,000,000,000) annually.

6 (f) A recent research review found that a key dietary factor  
7 contributing to obesity is the consumption of sweetened beverages.  
8 This review recommended decreased consumption of those  
9 products as a strategy for obesity prevention.

10 (g) Tap water is a healthy, natural, and safe beverage that is  
11 easy to drink and is free of calories.

12 (h) Water is a vital nutrient, a basic necessity of life, and is  
13 essential for the maintenance of health. Proper hydration can  
14 prevent health problems, such as kidney stones, and can contribute  
15 to mental acuity, athletic performance, and healthy weight  
16 maintenance.

17 (i) Pupils in many schools lack access to tap water for many  
18 reasons, such as dirty or inoperable fountains, competition from  
19 school beverage contracts, and confusion as to whether free water  
20 can be offered in school cafeterias and other food service areas.

21 (j) Schools have developed a variety of successful methods for  
22 delivering free tap water, including the use of water fountains,  
23 pitchers of water, and hydration stations.

24 (k) To help more pupils enjoy the benefits of water at school,  
25 existing barriers to access to tap water must be removed. Important  
26 first steps are removing the competition from beverage contracts  
27 and ending the confusion about water in the school cafeterias.

28 SEC. 2. Section 35182.7 is added to the Education Code, to  
29 read:

30 35182.7. Notwithstanding any other provision of law, the  
31 governing board of a school district shall not enter into, or renew,  
32 a contract that prevents or discourages schools either explicitly or  
33 implicitly from providing free tap water at a location on the school  
34 campus.

35 SEC. 3. Section 49571 is added to the Education Code, to read:

36 49571. Each school district shall allow for the provision of free  
37 tap water in school food service areas, as defined in federal  
38 regulations, including, but not necessarily limited to, areas where  
39 reimbursable meals under the National School Lunch Program or  
40 the federal School Breakfast Program are served or consumed.

1     SEC. 4. If the Commission on State Mandates determines that  
2     this act contains costs mandated by the state, reimbursement to  
3     local agencies and school districts for those costs shall be made  
4     pursuant to Part 7 (commencing with Section 17500) of Division  
5     4 of Title 2 of the Government Code.

O